

GUIDELINE

BILL NO. OVERLAYS. 82 Amdt.

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AMENDMENT NO.

CAL. NO.

COMMITTEE AMENDMENT

[Staff Working Draft]

February 11, 1999

Purpose: To make technical and substantive changes in the bill as introduced.

IN THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION_ 106 th
Cong., 1 st Sess.

S. 82, 106 th Congress, 1 st Session

DATELINE February 11, 1999

Intended to be proposed by Mr. McCain (for himself and Mr. Hollings)

Viz:

On page 16, line 7, strike ``and" the second place it appears.

On page 16, line 10, strike ``passengers.' ." and insert ``passengers; and"

On page 16, between lines 10 and 11, insert the following:

``(E) on flights between 2 or more points in Hawaii, except segments of flights that originate or terminate outside Hawaii.".

On page 18, after line 24, insert the following:

(k) Minimum Apportionment._ Section 47114(c)(1)(B) is amended by adding at the end thereof the following: ``For fiscal years beginning after fiscal year 1999, the preceding sentence shall be applied by substituting `\$650,000' for `\$500,000'.".

On page 19, strike lines 1 through 3 and insert the following:

(l) Apportionment for Cargo Only Airports._

(1) Section 47114(c)(2)(A) is amended by striking ``2.5 percent" and inserting ``3 percent".

(2) Section 47114(c)(2) is further amended by striking subparagraph (C).

On page 19, between lines 3 and 4, insert the following:

(m) Temporary Air Service Interruptions._ Section 47114(c)(1) is amended by adding at the end thereof the following:

``(C) The Secretary may, notwithstanding subparagraph (A), apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that_

``(i) passenger boardings at the airport fell below 10,000 in the calendar year used to calculate the apportionment;

``(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate apportionments to airport sponsors in a fiscal year; and

``(iii) the cause of the shortfall in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.".

On page 19, line 4, strike ``(l)" and insert ``(n)".

On page 19, after line 23, insert the following:

(o) Eligibility of Runway Incursion Prevention Devices ._

(1) Policy ._Section 47101(a)(11) is amended by inserting ``(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)" after ``activities".

(2) Maximum use of safety facilities ._Section 47101(f) is amended_

(A) by striking ``and" at the end of paragraph (9); and

(B) by striking the period at the end of paragraph (10) and inserting ``; and"; and

(C) by adding at the end the following:

``(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.".

(3) Airport development defined in Section 47102(3)(B)(ii) is amended by inserting ``and including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices" before the semicolon at the end.

On page 20, line 9, insert ``both technical and procedural," after ``improvements,".

On page 25, strike lines 1 through 6.

On page 27, strike lines 21 through 23 and insert the following:

Section 45301(a)(2) is amended to read as follows:

``(2) Services provided to a foreign government or to any entity obtaining services outside the United States other than_

``(A) air traffic control services; and

``(B) fees for production-certification-related service (as defined in Appendix C of part 187 of title 14, Code of Federal Regulations) performed outside the United States.".

On page 31, line 25, strike the closing quotation marks and the second period.

On page 41, between lines 9 and 10, insert the following:

(b) Investigation of All Complaints Required._ Section 41705 is amended by_

(1) inserting ``(a) In General._" before ``In providing";

(2) inserting ``, including any foreign air carrier doing business in the United States," after ``In providing air transportation, an air carrier"; and

(3) adding at the end thereof the following:

``(b) Each Act Constitutes Separate Offense._ Each separate act of discrimination prohibited by subsection (a) constitutes a separate violation of that subsection.

``(c) Investigation of Complaints._

“(1) In general._ The Secretary or a person designated by the Secretary within the Office of Civil Rights shall investigate each complaint of a violation of subsection (a).

“(2) Publication of data._ The Secretary or a person designated by the Secretary within the Office of Civil Rights shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

“(3) Employment._ The Secretary is authorized to employ personnel necessary to enforce this section.

“(4) Review and report._ The Secretary or a person designated by the Secretary within the Office of Civil Rights shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability, and report annually to Congress on the results of such review.

“(5) Technical Assistant._ Not later than 180 days after enactment of the Air Transportation and Improvement Act, the Secretary shall_

“(A) implement a plan, in consultation with the Department of Justice, United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities of this section; and

“(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or duties under this section.”.

On page 41, line 10, strike “(b)” and insert “(c)”.

On page 41, beginning with line 15, strike through line 7 on page 42 and insert the following:

“(7) Violation of section 41705._

“(A) Credit; voucher; civil penalty._ Unless an individual accepts a credit or voucher for the purchase of a ticket on an air carrier or any affiliated air carrier for a violation of subsection (a) in an amount (determined by the Secretary) of_

“(i) not less than \$500 and not more than \$2,500 for the first violation; or

“(ii) not less than \$2,500 and not more than \$5,000 for any subsequent violation,

then that air carrier is liable to the United States Government for a civil penalty, determined by the Secretary, of not more than 100 percent of the amount of the credit or voucher so determined.

“(B) Remedy Not Exclusive._ Nothing in subparagraph (A) precludes or affects the right of persons with disabilities to file private rights of action under section 41705 of title 49, United States Code or to limit claims for compensatory or punitive damages asserted in such cases.

“(C) Attorney's Fees._ In addition to the penalty provided by subparagraph (A), an individual who_

“(i) brings a civil action against an air carrier to enforce this section; and

“(ii) who is awarded damages by the court in which the action is brought,

may be awarded reasonable attorneys' fees and costs of litigation reasonably incurred in bringing the action if the court deems it appropriate.”.

On page 46, beginning in line 12, strike “civil enforcement action under the program known as Flight Operations Quality Assurance.” and insert “enforcement actions for violations of the Federal Aviation Regulations other than criminal or deliberate acts that are reported or discovered as a result of voluntary reporting programs, such as the Flight Operations Quality Assurance Program and the Aviation Safety Action Program.”.

On page 48, strike line 6 and insert the following:

SEC. 412. ALASKA RURAL AVIATION IMPROVEMENT.

On page 48, line 7, strike “Section 40113” and insert “(a) Application of FAA Regulations._ Section 40113”.

On page 48, between lines 16 and 17, insert the following:

(b) Aviation Closed Circuit Television._ The Administrator of the Federal Aviation Administration, in consultation with commercial and general aviation pilots, shall install closed circuit weather surveillance equipment at not fewer than 15 rural airports in Alaska and provide for the dissemination of information derived from such equipment to pilots for pre-flight planning purposes and en route purposes, including through the dissemination of such information to pilots by flight service stations. There are authorized to be appropriated \$2,000,000 for the purposes of this subsection.

(c) Mike-in-hand Weather Observation._ The Administrator of the Federal Aviation Administration and the Assistant Administrator of the National Weather Service, in consultation with the National Transportation Safety Board and the Governor of the State of Alaska, shall develop and implement a “mike-in-hand” weather observation program in Alaska under which Federal Aviation Administration employees, National Weather Service employees, other Federal or State employees sited at an airport, or persons contracted specifically for such purpose (including part-time contract

employees who are not sited at such airport), will provide near-real time aviation weather information via radio and otherwise to pilots who request such information.

(d) Rural IFR Compliance._ There are authorized to be appropriated \$4,000,000 to the Administrator for runway lighting and weather reporting systems at remote airports in Alaska to implement the CAPSTONE project.

On page 51, line 3, insert ``flight deck" after ``for".

On page 60, line 3, strike ``expeditiously." and insert ``expeditiously and governed by the Federal Rules of Civil Procedure.".

On page 63, between lines 18 and 19, insert the following:

``(4) Frivolous complaints._ Rule 11 of the Federal Rules of Civil Procedure applies to any complaint brought under this section that the Secretary finds to be frivolous or to have been brought in bad faith.

On page 63, line 19, strike ``(4)" and insert ``(5)".

On page 64, line 17, strike ``(5)" and insert ``(6)".

On page 65, line 6, strike ``(6)" and insert ``(7)".

On page 66, line 8, strike the closing quotation marks and the second period.

On page 66, between lines 8 and 9, insert the following:

``(e) Contractor Defined._ In this section, the term `contractor' means a company that performs safety-sensitive functions by contract for an air carrier.".

On page 83, beginning with line 4, strike through line 2 on page 84.

On page 102, line 5, strike ``\$30,000,000" and insert ``\$80,000,000".

On page 110, beginning with line 13, strike through line 2 on page 111 and insert the following:

There are authorized to be appropriated to the Secretary of Transportation \$80,000,000 to carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 2000.

On page 112, line 3, strike ``shall" and insert ``may".

On page 112, line 4, strike ``problem." and insert ``problem, or take other appropriate action. Nothing in this section expands the authority or jurisdiction of the Secretary to promulgate regulations under the Federal Aviation Act or under any other Act.".

On page 114, strike lines 7 through 23.

On page 114, line 24, strike ``(g)" and insert ``(f)".

On page 115, line 19, strike ``(h)" and insert ``(g)".

On page 115, line 23, strike ``(i)" and insert ``(h)".

On page 119, beginning in line 1, strike ``is not smaller than a large hub airport (as defined in section 47134(d)(2))." and insert ``has 2,000,000 or fewer annual enplanements.".

On page 143, between lines 18 and 19, insert the following:

(2) Lake Mead._ A commercial air tour of the Grand Canyon that transits over or near Lake Mead or Boulder Dam en route to, or returning from, the Grand Canyon, without offering a deviation in flight path between its point of origin and the Grand Canyon, shall be considered, for purposes of paragraph (1), to be exclusively a commercial air tour of the Grand Canyon.

On page 143, line 19, strike ``(2)" and insert ``(3)".

On page 143, line 23, strike ``(3)" and insert ``(4)".

At the appropriate place, insert the following:

SEC. ____ . FAA STUDY OF BREATHING HOODS.

The Administrator shall study whether breathing hoods currently available for use by flight crews when smoke is detected are adequate and report the results of that study to the Congress within 120 days after the date of enactment of this Act.

SEC. ____ . FAA STUDY OF ALTERNATIVE POWER SOURCES FOR FLIGHT DATA RECORDERS AND COCKPIT VOICE RECORDERS.

The Administrator of the Federal Aviation Administration shall study the need for an alternative power source for on-board flight data recorders and cockpit voice recorders and shall report the results of that study to the Congress within 120 days after the date of enactment of this Act. If, within that time, the Administrator determines, after consultation with the National Transportation Safety Board that the Board is preparing recommendations with respect to this subject matter and will issue those recommendations within a reasonable period of time, the Administrator shall report to the Congress the Administrator's comments on the Board's recommendations rather than conducting a separate study.

SEC. __. LIMITED TRANSPORTATION OF CERTAIN AIRCRAFT.

Section 47528(e) is amended by adding at the end thereof the following:

“(4) An air carrier operating Stage 2 aircraft under this subsection may transport Stage 2 aircraft to or from the 48 contiguous States on a non-revenue basis in order to_

“(A) perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

“(B) conduct operations within the limitations of paragraph (2)(B).”.

SEC. __. PASSENGER FACILITY FEE LETTERS OF INTENT.

The Secretary of Transportation may not require an eligible agency (as defined in section 40117(a)(2) of title 49, United States Code), to impose a passenger facility fee (as defined in section 40117(a)(4) of that title) in order to obtain a letter of intent under section 47110 of that title.

SEC. __. ELIMINATION OF HAZMAT ENFORCEMENT BACKLOG.

(a) Findings._ The Congress makes the following findings:

(1) The transportation of hazardous materials continues to present a serious aviation safety problem which poses a potential threat to health and safety, and can result in evacuations, emergency landings, fires, injuries, and deaths.

(2) Although the Federal Aviation Administration budget for hazardous materials inspection increased \$10,500,000 in fiscal year 1998, the General Accounting Office has reported that the backlog of hazardous materials enforcement cases has increased from 6 to 18 months.

(b) Elimination of Hazardous Materials Enforcement Backlog._ The Administrator of the Federal Aviation Administration shall_

(1) make the elimination of the backlog in hazardous materials enforcement cases a priority;

(2) seek to eliminate the backlog within 6 months after the date of enactment of this Act; and

(2) make every effort to ensure that inspection and enforcement of hazardous materials laws are carried out in a consistent manner among all geographic regions, and that appropriate fines and penalties are imposed in a timely manner for violations.

(c) Information Regarding Progress._ The Administrator shall provide information to the Committee on Commerce, Science, and Transportation, on a quarterly basis beginning 3 months after the date of enactment of this Act for a year, on plans to eliminate the backlog and enforcement activities undertaken to carry out subsection (b).

SEC. _____. FAA EVALUATION OF LONG-TERM CAPITAL LEASING.

Notwithstanding any other provision of law to the contrary, the Administrator of the Federal Aviation Administration may establish a pilot program for fiscal years 2001 through 2004 to test and evaluate the benefits of long-term capital leasing contracts. The Administrator shall establish criteria for the program, but may enter into no more than 10 leasing contracts under this section, each of which shall be for a period greater than 5 years, under which the equipment or facility operates. The contracts to be evaluated may include requirements related to oceanic air traffic control, air-to-ground radio communications, and air traffic control tower construction.

SEC. _____. AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) Authority . _

(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning March 1, 1999, and ending on September 30, 2002, sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that contracts to deliver oil dispersants by air in order to disperse oil spills, and that has been approved by the Secretary of the Department in which the Coast Guard is operating, for the delivery of oil dispersants by air in order to disperse oil spills.

(2) The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be_

(A) excess to the needs of the Department;

(B) acceptable for commercial sale; and

(C) with respect to aircraft, 10 years old or older.

(b) Conditions of Sale . _Aircraft and aircraft parts sold under subsection (a)_

(1) may be used only for oil spill spotting, observation, and dispersant delivery; and

(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, or

for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Transportation.

(c) Certification of persons and entities._ The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Transportation certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air.

(d) Regulations._

(1) As soon as practicable after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Transportation and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall_

(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value as determined by the Secretary of Defense, and,

to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end-users in accordance with the conditions set forth in subsection (b) or pursuant to sub- section (e); and

(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) Additional Terms and Conditions._ The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

(f) Report._ Not later than March 31, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of

authority under this section. The report shall set forth__

(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) Construction._ Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

(h) Proceeds from Sale._ The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.